

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL S. GERMSCHIED,
EUGENE J. GRETTTER,
DARYL J. KRESS,
TIMOTHY J. GUHL,
and GAIL L. BEHR

MAILED

JUN 22 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2004-1685
Application 09/448,164¹

ON BRIEF

Before BARRETT, RUGGIERO, and SAADAT, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-20.

We reverse.

¹ Application for patent filed November 24, 1999, entitled "Method and Apparatus for a Web Application Server to Create an Empty Data Set in a Repository with a Specified Dataset ID."

BACKGROUND

The invention relates to providing access to database management systems via Internet user terminals.

Claim 1 is reproduced below.

1. In a data processing environment the improvement comprising:

- a. an Internet terminal;
- b. a publically accessible digital data communication network responsively coupled to said Internet terminal;
- c. a data base management system having at least one data base responsively coupled to said publically accessible digital data network; and
- d. a service request generated by said Internet terminal and transferred to said data base management system via said publically accessible digital data communication network which creates a non-relational empty data set with a specified data set ID within the data base management system.

THE REFERENCES

The examiner relies on the following references:

Hong et al. (Hong) 6,266,673 July 24, 2001
(effective filing date October 31, 1997)

Why Do I Need Cool ICE?, Cool ICE and Active Server Pages
White Paper, UNISYS, March 1999 (hereinafter "Cool ICE").

THE REJECTIONS

Claims 1-4, 6-8, 11-14, and 16-18 stand rejected under
35 U.S.C. § 102(e) as being anticipated by Hong.

Claims 5, 9, 10, 15, 19, and 20 stand rejected under
35 U.S.C. § 103(a) as being unpatentable over Hong and Cool ICE.

We refer to the final rejection (Paper No. 11) (pages referred to as "FR__") and the examiner's answer (Paper No. 15) (pages referred to as "EA__") for a statement of the examiner's rejection, and to the brief (Paper No. 14) (pages referred to as "Br__") for a statement of appellants' arguments thereagainst.

OPINION

"Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim. A prior art disclosure that 'almost' meets that standard may render the claim invalid under § 103; it does not 'anticipate.'" (Cite omitted.) Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 1548, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

Appellants argue that the functionality of Hong most related to the claimed invention occurs exclusively within a single computer 100 and, thus, Hong does not teach an Internet terminal coupled to a database management system (Br14-16). Appellants argue that the examiner reads claim elements a) and c) on the same structure because the examiner cites to "col. 2, line 60 through col. 3, line 6; see also col. 5, lines 25-64" (FR3) for both elements (Br17). Appellants admit that Hong discloses the Internet, the "publically accessible digital data communication network" in element b), but it cannot couple elements a) and b), which are both the same element.

The examiner finds that Hong discusses a distributed database environment and that in the database art, a distributed database is one in which the data is distributed across multiple DBMSs running on different nodes of a network (EA5). The examiner also finds that Hong teaches the use of the Internet (EA5). The examiner further finds that Hong discusses local and remote database servers in connection with Fig. 2 (EA6). The examiner finds (EA6):

[T]he examiner interprets Figure 1 as embodying a system wherein a database client runs on computer system 100, and the network link 120 provides access to a database management system running on server 130 via Internet 128. Figure 2 displays a database client 208 running on a server also containing a local database management system 202, and also a remote database management system 252 running on a remote server accessible via a network, for instance, the Internet.

Hong does not disclose that an Internet terminal is connected over the Internet (or other publicly accessible communications network) to a DBMS. The computer 100 in Hong corresponds to the claimed "Internet terminal" of element a) and the Internet 128 corresponds to the claimed "publically accessible digital data communication network" of element b). (Although the claimed "publically accessible digital data communication network" is broader than the Internet, any reliance on a non-Internet network would require some proof that it was "publically accessible.") However, there is no teaching that the server 130 corresponds to the "data base management system" of

element c), as found by the examiner. According to Hong, the server 130 might download an application to the computer 100 (col. 5, line 56, to col. 6, line 2), so server 130 is not said to be a DBMS server. Hong discloses (col. 6, lines 9-14): "A database client may be a computer system, including the computer system executing the DBMS, or another computer executing another DBMS. In the computer system 100 of FIG. 1, sequences of instructions comprised by the DBMS are executed by the processor 104 to carry out requests of a database client." This supports appellants' arguments that the database client and the database server are the computer 100. While it might be obvious that the server 130 could be a DBMS server, the rejection is based on anticipation.

As to the examiner's findings regarding Fig. 2, Fig. 2 shows a database client 208 connected to database server 202. To database server 202, database server 252 is a foreign database server. Client 208 is connected to database server 202, and therefore database server 202 is a local database server relative to client 208, and database server 252 and database 254 are foreign to the local database server 202 of client 208. See col. 6, lines 34-63. Hong discloses the problems in accessing objects in a distributed environment, where objects may reside in any database of a number of databases (col. 2, lines 60-62) and where the distributed database is on a network

(col. 3, line 9). Presumably, Fig. 2 is meant to show a distributed database. However, Hong does not expressly say that the network is the Internet or a "publically accessible digital data communication network," nor can it be said that the network is inherently one of these because it could be a private network. "Inherency, however, may not be established by probabilities or possibilities." In re Oelrich, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981). As a matter of claim interpretation, the claimed "Internet terminal" does not imply that the "publically accessible digital data network" is the Internet: the "Internet terminal" could be connected separately to the Internet and the "publically accessible digital data communication network." However, this still does not solve the problem that Hong does not teach a separate Internet terminal and database management system connected to a "publically accessible digital data communication network." It might have been obvious to one skilled in the art for the distributed DBMS network in Hong to be the Internet but the rejection is based on anticipation. Also, in view of appellants' discussion of the problem of Internet access to databases because of the "stateless" nature of the Internet the obviousness question is not clear. The appellants have argued that the combination of limitations of a), b), and c) is not taught by Hong and we must agree. The anticipation rejection of claim 1 and its dependent claims 2-4 is reversed. Independent

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claims 6, 11, and 16 all require communication with a database over a "publically accessible digital data communication network" and the anticipation rejection must be reversed for the same reasons stated in connection with claim 1. The rejection of independent claims 6, 11, and 16, and their dependent claims 7, 8, 12-14, 17, and 18 is reversed.

The Cool ICE reference does not overcome the deficiencies of Hong with respect to the independent claims and, accordingly, the obviousness rejection of claims 5, 9, 10, 15, 19, and 20 is reversed.

CONCLUSION

The rejections of claims 1-20 are reversed.

REVERSED

Lee E. Barrett
LEE E. BARRETT)
Administrative Patent Judge)

JOSEPH F. RUGGIERO
Administrative Patent Judge

MAHSHID D. SAADAT
Administrative Patent Judge

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